

FILED

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**SECRETARY, BOARD OF
OIL, GAS & MINING**

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*Attorneys for Permittee
Red Leaf Resources, LLC*

**BEFORE THE BOARD OF OIL, GAS, AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

LIVING RIVERS,

Petitioner,

v.

DIVISION OF OIL, GAS, & MINING,
DEPARTMENT OF NATURAL
RESOURCES, STATE OF UTAH,

Respondent.

**PERMITTEE'S UNOPPOSED MOTION
TO INTERVENE**

Docket No. 2012-017

Cause No. M/047/0103

Red Leaf Resources, Inc. ("RLR" or "Red Leaf"), by and through counsel pursuant to Utah Code Ann. § 63G-4-207(1), Utah Admin. Code R647-5-110 and Utah Admin. Code R641-103-100, hereby MOVES TO INTERVENE in the above-captioned formal adjudicative proceeding before the Utah Board of Oil, Gas & Mining ("the Board"). This proceeding commenced with a Request for Agency Action And Request For A Hearing By Petitioner Living Rivers, filed with the Board on March 19, 2012 ("Request for Agency Action"). The Request for Agency Action seeks review of the March 9, 2012 decision of the Division of Oil, Gas and

Mining ("Division") approving Red Leaf's Notice of Intent to commence large mining operations for the Southwest Mine #1 ("NOI"). Red Leaf is not named by Living Rivers as a respondent to its Request for Agency Action. Red Leaf is the permittee of the approved NOI and seeks to intervene as a matter of right to assist in the defense of the Division's decision. RLR's motion to intervene is unopposed by either the Division or Living Rivers.

ARGUMENT

The Utah Administrative Procedures Act requires a presiding officer to permit a non-party's intervention in a formal administrative adjudication if the non-party has a legal interest that might be substantially affected by the pending action, subject to the condition that intervention will not impair the interests of justice or the orderly and prompt resolution of the matter. Utah Code Ann. § 63G-4-207(2) (2009); *See Millard County v. Utah State Tax Comm'n*, 832 P.2d 459, 462 (Utah 1991). This Board's rules reflect these statutory provisions. Utah Admin. Code R641-103-130 (2009). The Utah Supreme Court has held that rules governing intervention should be liberally construed. *See Chatterton v. Walker*, 938 p.2d 255 (1997). The following facts demonstrate that RLR's rights will be affected:

1. RLR is the applicant and permittee of NOI No. M/047/0103 which is the permit challenged by Petitioners;
2. RLR holds mineral leases entitling it to mine oil shale from the NOI permit area; and
3. RLR has invested substantial amounts in preparing the NOI application and the technical analysis and studies which support the NOI.

RLR's participation will aid, and not hinder, just, prompt and orderly resolution of this matter. As the project proponent, applicant and author of the NOI permit application, RLR is in

the best position to provide the Board with information regarding the technical investigations, data and analyses that support the NOI and the Division's decision approving the permit application. As a party to the proceeding, RLR would request that the Board affirm the Division's decision to approve the NOI.

The undersigned counsel represents that she has consulted with counsel for Living Rivers and the Division, neither of whom oppose RLR's Motion. Therefore, RLR respectfully requests that the Board issue an order granting the Motion to Intervene, and recognizing RLR as a full party and participant in the requested hearing.

RESPECTFULLY SUBMITTED this 27th day of March, 2012.


SNELL & WILMER, LLP
Denise A. Dragoo
James P. Allen

Attorneys for Red Leaf Resources, Inc.

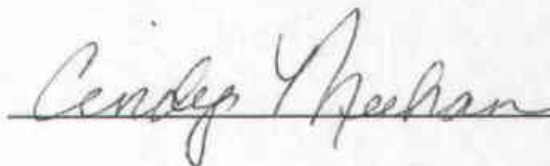
CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of March, 2012, I mailed a true and correct copy of the foregoing PERMITTEE'S UNOPPOSED MOTION TO INTERVENE via e-mail and United States mail, postage prepaid, to the following:

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DIVISION OF OIL, GAS, & MINING,
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RESOURCES, STATE OF UTAH,

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**[PROPOSED]
ORDER GRANTING PERMITTEE'S
UNOPPOSED MOTION TO INTERVENE**

Docket No. _____

Cause No. M/047/0103

Having received the Unopposed Motion of Red Leaf Resources, Inc. ("RLR") to intervene in the above-captioned matter, and good cause appearing, the Board of Oil, Gas and Mining hereby determines that RLR's legal interests in conducting operations under the contested permit will be substantially affected by the Board's decision in this matter, and that RLR's participation will aid the prompt and orderly resolution of this matter.

THEREFORE, pursuant to Utah Administrative Code R641-103-130 hereby GRANTS the Unopposed Motion to Intervene, and Orders that RLR is and shall be a party to this matter, and is entitled to participate unconditionally in all proceedings connected thereto.

So Ordered.

UTAH BOARD OF OIL, GAS & MINING

Chairman James T. Jensen